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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------------------|------------------|
| 09/875,798 | 06/05/2001 | Ashvinkumar J. Sanghvi | MS1-693US | 5525 |
| 22801 | 7590 | 02/06/2007 | | |
| LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201 | | | EXAMINER SIDDIQI, MOHAMMAD A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2154 | |

| SHORTENED STATUTORY PERIOD OF RESPONSE | NOTIFICATION DATE | DELIVERY MODE |
|--|-------------------|---------------|
| 3 MONTHS | 02/06/2007 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 02/06/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

| | | | |
|------------------------------|---------------------|----------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/875,798 | SANGHVI ET AL. | |
| | Examiner | Art Unit | |
| | Mohammad A. Siddiqi | 2154 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 18-21, 23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 18-21, 23, and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>07/31/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-9, 18-21, and 23-24 are presented for examination. Claims 10-17 and 22 have been canceled.
2. The information disclosure statement (IDS) submitted on 07/13/2006 was filed after the mailing date of the Office Action on 01/30/2006. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.
3. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/10/2006 has been entered.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 18-20 are rejected under 35 U.S.C. § 101 for being non statutory. Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in § 101. In the specification, pages 20-21, " By way of example, and not limitation, **computer readable media may comprise computer storage media and communication media**... Communication media typically embodies computer readable instructions, data structures, program modules or other data in a modulated data signal such as a carrier wave or other transport mechanism and includes any information delivery media. The term "modulated data signal" means a signal that has one or more of its characteristics set or changed in such a manner as to encode information in the signal. Combinations of any of the above should also be included within the scope of computer readable media."

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-9, 18-21, and 23-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Thebaut et. al. (5,889,953) (hereinafter Thebaut).

8. As per claim 1, Thebaut discloses a method comprising:
evaluating a current state (operational characteristics of a device, col 5, lines 29-39) of each device of a plurality of devices (routers, switches, bridges and hubs, col 5, lines 35-39) where each device is evaluated independently of the plurality of devices (col 3, lines 30-67);

assigning devices of the plurality of devices to a group (elements of fig 3, col 5, lines 29-52; col 6, lines 3-11, configuration: the selected parameters that determine the operating characteristics of an electronic device), the assigned devices each having substantially common state as other devices in the group (53, 54, 56, fig 5, col 5, lines 30-52, col 6 lines 3-

11, domain is interpreted as a group of computers and devices on a network that are administered as a unit with common rules and procedures);

assigning at least one event-handling (col 4, lines 9-15) policies to the group (53, 54, 56, fig 5, col 5, lines 30-52, col 6 lines 3-11), wherein assigned policy is associated with each of the devices in the group (col 5, lines 60-67; col 6, lines 1-11); and

revaluating (conflict resolution, col 4, lines 12-67; col 5, lines 1-14; col 9, lines 5-10) a current state (col 6, lines 62-67) of each device in the group to ascertain validity of membership in the group before the assigned policy is applied to the devices in the group (conflict resolution, elements of fig 3, col 5, lines 29-52; col 6, lines 3-67; col 7, lines 3-48; configuration: the selected parameters that determine the operating characteristics of an electronic device).

9. As per claim 18, the claim is rejected for the same reasons as claims 1, above.

10. As per claim 2, Thebaut discloses evaluating a current state (device goes up or down etc, col 6, lines 49-67) of each device determines whether each device is currently a member of the group (col 6, lines 49-67).

11. As per claims 3 and 19, the claim is rejected for the same reasons as claim 1, above. In addition, Thebaut discloses determining whether a particular device is currently a member of the group (col 5, lines 29-67, col 6, lines 49-67, monitoring objects in the domain space); and

applying the assigned policy to the particular device if the particular device is currently a member of the group (col 5, lines 29-67, col 6, lines 1-11, monitoring objects in the domain space).

12. As per claim 4, Thebaut discloses each device is assigned at least one additional policy that is not assigned to the group (conflicts anticipates devices are assigned with more than one policy, col 4, lines 25-34).

13. As per claim 5, Thebaut discloses a particular device is assigned to multiple groups (parent and grandparent domain, col 4, lines 25-34).

14. As per claim 6, Thebaut discloses the event-handling policy defines how the device is configured (col 5, lines 60-67 and col 6, lines 1-11).

15. As per claim 7 and 20, Thebaut discloses the event-handling policy identifies the types of events that are provided to each device (col 5, lines 60-67 and col 6, lines 49-67).

16. As per claim 8, Thebaut discloses the method is implemented by a management module (PCM, col 5, lines 60-67).

17. As per claim 9, Thebaut discloses One or more computer-readable memories containing a computer program that is executable by a processor to perform the method of claim 1 (fig 15, col 16, lines 54-65).

18. As per claim 21, the claim is rejected for the same reasons as claim 1, above. In addition, Thebaut discloses if a current states of a particular system in the particular group is not valid (conflict resolution, col 4, lines 12-67; col 5, lines 1-14; col 9, lines 5-10), updating the particular group to delete the particular system (disallowing overlapping, col 2, lines 5-43; col 4, lines 25-67); and applying the policies to the systems in the updated group (col 2, lines 5-43; col 4, lines 25-67).

19. As per claim 23, Thebaut discloses creating an event log associated with the particular group (col5, lines 14-26); and maintaining information about the states of the systems in the particular group in the event log (col5, lines 14-26; col 6, lines 49-67)

20. As per claim 24, Thebaut discloses the current states represent at least one of a version of an operating system, a location in a geographic region, a configuration of the system, presence of a particular hardware item, or capacity of a particular hardware item (col 4, lines 65-67, col 6, lines 49-67, enterprise network is a geographically dispersed network under the jurisdiction of one organization. It may include several different types of networks and computer systems from different vendors).

Response to Arguments

21. Applicant's arguments filed 11/10/2006 have been fully considered but they are not persuasive, therefore rejections to claims 1-9, 18-21, and 23-24 is maintained.

22. In the remarks applicants argued that:

Argument: Thebaut does not teach or suggest evaluating a current state of each device before assigning device to a group.

Response: Thebaut does not teach or suggest evaluating a current state of each device (operational characteristics of a device, col 5, lines 29-39)

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device before assigning device to a group (col 5, lines 29-52; col 6, lines 3-11).

Argument: Thebaut does not teach reevaluating a current state of each device in the group to ascertain validity of membership in the group before the assigned policy is applied to the devices in the group.

Response: Thebaut discloses reevaluating (conflict resolution, col 4, lines 12-67; col 5, lines 1-14; col 9, lines 5-10) a current state (col 6, lines 62-67) of each device in the group to ascertain validity of membership in the group before the assigned policy is applied to the devices in the group (conflict resolution, elements of fig 3, col 5, lines 29-52; col 6, lines 3-67; col 7, lines 3-48).

Conclusion

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad A. Siddiqi whose telephone number is (571) 272-3976. The examiner can normally be reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on (571) 272-1915.

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The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MAS


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